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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
MARK HANES,
Defendant.

No.: CR 05-00656 PJH

**PARTIES' STIPULATION AND
[PROPOSED] ORDER EXCLUDING
TIME UNDER THE SPEEDY TRIAL ACT,
18 U.S.C. § 3161(h)(8)(B), FROM
NOVEMBER 9, 2005 UNTIL
FEBRUARY 6, 2006**

The parties stipulate and agree, and the Court finds and holds, as follows:

1. The parties appeared in this Court on the above-captioned matter on November 9, 2005.

2. At that appearance, the trial date was set for February 6, 2006. Defense counsel stated that he will be unavailable for much of December due to a lengthy jury trial, and will be taking a one-week vacation out of the country. Accordingly, the parties moved that this same time period be excluded from the calculation of time under the Speedy Trial Act based upon continuity of counsel and effective preparation of counsel. *See* 18 U.S.C. § 3161(h)(8)(B).

3. In light of the foregoing facts, the failure to grant the requested exclusion would unreasonably deny counsel for the defense the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would unreasonably deny the

defendant continuity of counsel. See 18 U.S.C. § 3161(h)(8)(A), (B)(iv). The ends of justice would be served by the Court excluding the proposed time period. These ends outweigh the best interest of the public and the defendant in a speedy trial. See id. § 3161(h)(8)(A).

4. For the reasons stated, the time period from November 9, 2005 through February 6, 2006 shall be excluded from the calculation of time under the Speedy Trial Act.

SO STIPULATED.

DATED: 11/14/05

Respectfully Submitted,


/s/
MICHELLE MORGAN-KELLY
Assistant United States Attorney

DATED: 11/17/05

/s/
DANIEL BLANK
Counsel for Defendant Mark Hanes

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 11/21/05


HON. PHYLLIS J. HAMILTON
United States District Court Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the office of the United States Attorney, Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned certifies that she caused copies of

**PARTIES' STIPULATION AND [PROPOSED] ORDER EXCLUDING TIME UNDER
THE SPEEDY TRIAL ACT, 18 U.S.C. SECTION 3161(h)(8)(B),
FROM NOVEMBER 9, 2005 UNTIL FEBRUARY 6, 2006**

in the case of UNITED STATES V. MARK HANES, CR 05-00656 PJH to be served on the parties in this action, by placing a true copy thereof in a sealed envelope, addressed as follows which is the last known address:

**Daniel Blank
Assistant Federal Public Defender
450 Golden Gate Avenue, 19th Floor
San Francisco, CA 94102**

X (By Personal Service), I caused such envelope to be delivered by hand to the person or offices of each addressee(s) above.

_____ (By Facsimile), I caused each such document to be sent by Facsimile to the person or offices of each addressee(s) above.

_____ (By Mail), I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, California.

_____ (By Fed Ex), I caused each such envelope to be delivered by FED EX to the address listed above.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 17, 2005

/s/
RAWATY YIM
United States Attorney's Office